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Written statement* submitted by European Centre for Law and Justice, The / Centre Europeen pour le droit, les Justice et les droits de l'homme, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[23 August 2018]

* Issued as received, in the language(s) of submission only.

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Requesting that the U.N. Assist in the Immediate Release and Return to the United States of American Citizen Pastor Andrew Brunson from Wrongful Detention in Turkey

1. Introduction

One of the principle aims of the United Nations (U.N.), as expressed in the preamble of the 1945 United Nations Charter, is 'to reaffirm faith in fundamental human rights [and] in the dignity and worth of the human person'[1]. It is for this reason that the United Nations Human Rights Council (UNHRC) holds member states accountable for those significant violations of human dignity that run contrary to this aim.

The European Centre for Law and Justice (ECLJ), on behalf of Pastor Andrew Brunson, and nearly 600,000 people from 202 countries and territories who have signed a petition requesting his release, once again respectfully draws this Council's attention to the plight of Pastor Andrew Brunson, an American citizen, who has been unjustly and arbitrarily detained and imprisoned in Turkey for nearly two years.

Pastor Brunson's ongoing trial in Turkey began on 16 April 2018. Turkey has made it clear that this is a sham trial, and, as indicated by President Erdoğan's multiple demands to swap Pastor Brunson for Fethullah Gülen, Pastor Brunson is undoubtedly a political prisoner being held as a bargaining chip for Turkey. Furthermore, Turkey has instituted a working group, and recently dispatched a delegation to the United States to try and resolve the wrongful detention of Pastor Brunson, clearly indicating that he is indeed a political hostage.

As a founding Member State of the U.N., Turkey is obligated to adhere to norms set forth in the U.N. Charter, such as those requiring members '[t]o achieve international cooperation in promoting and encouraging respect for human rights and . . . fundamental freedoms without distinction as to [inter alia] religion'[2]. Pastor Brunson's detention appears to be related to his work as a Christian minister, and the indictment states his alleged crime as "Christianization." By detaining and imprisoning Pastor Brunson because of his religious expression, peaceful association, and assembly of religious believers, Turkey is violating not only its obligations under the U.N. Charter, but its own Constitution, as well as Pastor Brunson's fundamental rights: freedom of religion and belief, freedom of expression, freedoms of peaceful assembly and association. Therefore, these violations concern not only Turkey, but every Member State and every agency of the U.N.

2. Background

For 23 years, Pastor Brunson had worked openly on behalf of the people of Izmir, Turkey, serving as the pastor of the Izmir Resurrection Church, part of a small Protestant Christian community. Then, on 7 October 2016, Pastor Brunson arrived home to find a written summons to report with his passport to a local police station. Believing the summons was related to his routine application for a renewal of his residence visa, Pastor Brunson promptly reported to the Izmir police, only to be arrested and later told that he was to be deported, as he was considered a 'national security risk'. Pastor Brunson was never deported, he was instead transferred to the Harmandali Detention Centre and held for 63 days. During this time, he was denied access to an attorney and repeated requests by U.S. officials to visit Pastor Brunson were ignored, raising serious concerns.

On 9 December 2016, he was transferred to a prison facility as a suspect of alleged 'membership in an armed terrorist organization', despite no evidence having been presented to justify the accusations against him. Turkey repeatedly denied Pastor Brunson's appeals for release, and no indictment was handed down until March 2018. The indictment against Pastor Brunson was 62 pages long, wholly lacking in merit, and provided no evidence regarding criminal action against him, only including hearsay from secret witnesses.

16 April 2018 was the first day of Pastor Brunson's trial. It lasted thirteen hours and was filled with video testimony of secret prosecution witnesses whose appearances and voices were disguised almost to the point of their testimony being indecipherable. At the conclusion, the 3-judge panel of Turkish judges refused to release Pastor Brunson and ordered that he be returned to prison.

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[1] U.N. Charter, Preamble.

[2] U.N. Charter art. 1, para. 3. *See also* Articles 55 and 56 of the U.N. Charter.

7 May 2018 was Pastor Brunson's second day of trial. It lasted eleven hours, and again involved only prosecution witness testimony. Two of the seven witnesses brought by the prosecution were secret, and all seven of the witnesses testified that they had not personally seen or heard Pastor Brunson do anything that would substantiate the charges against him. Their testimony was completely hearsay and conjecture. Pastor Brunson's Turkish attorney objected to the testimony of one of the witness against Pastor Brunson by pointing out that the witness had been convicted on 14 separate counts of fraud; however, the lead judge claimed that fact was not relevant and stated that all the prosecution witnesses' statements would be taken as fact.

18 July 2018 was Pastor Brunson's third day of trial, again involving secret prosecution witness testimony. The day concluded mid-afternoon after the court heard two prosecution witnesses and only allowed one defence witness to testify and whose testimony was essentially disregarded. Pastor Brunson was yet again remanded back to prison, and the judges yet again have delayed Pastor Brunson's trial by setting the next date for nearly *three months* later on 12 October 2018. Shortly after his third trial date, Pastor Brunson was abruptly moved from Turkish prison to house arrest in Turkey, where he is confined to his apartment and banned from leaving the country.

These actions violate Articles 9 (right to liberty and security of person), 14 (equality before the courts and tribunals), and 18 (right to freedom of thought, conscience and religion), of the International Covenant on Civil and Political Rights (ICCPR) to which Turkey is a signatory, as well as Articles 7 (equality before the law and equal protection of the law), 9 (no arbitrary arrest or detention), 10 (fair and public hearing), and 11 (presumed innocent until proved guilty) of the Universal Declaration of Human Rights (UDHR), and Article 5 (right to liberty and security of person & lawfulness of detention), and 6 (adequate time and facilities for the preparation of his defence) of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

Additionally, Articles 10 and 24 of the Constitution of the Republic of Turkey protect the rights of everyone to equality before the law 'without distinction as to language, race, colour, sex, political opinion, philosophical belief, religion and sect'[3], as do Articles 2 and 7 of the UDHR and Article 18 of the ICCPR. These rights include the freedom, 'either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching'[4]. Article 5 of the ECHR guarantees that no one shall be arbitrarily 'deprived of his liberty'.[5] Article 36 of the Constitution also protects the right to litigation 'before the courts through lawful means and procedure.' Turkey has violated all of these protections by arresting and detaining an innocent pastor in prison for over a year and a half based on the hearsay testimony of secret witnesses. Moreover, Turkey has denied Pastor Brunson the opportunity to mount an adequate defence by flippantly dismissing the majority of the defence witness testimony.

3. Request

One of the hallmarks of Turkey's proud history is the respect for all faiths and the rule of law. Thus, Turkey should respectfully be reminded of its continuing obligations under its constitution as well as the ICCPR, UDHR, and ECHR to respect and value the freedom of religion and rule of law. The ECLJ urges this Council to call upon Turkey to honour its obligations. The ECLJ is aware that the U.N. Working Group on Arbitrary Detention has begun an investigation of Pastor Brunson's case, has received a response from Turkey, and an answer from Pastor Brunson, as well as a supplemental response and answer. The ECLJ is grateful for the Working Group's attention to this matter, and further requests that the U.N. continue to make every effort to ensure that Pastor Brunson is not only treated with great care, but that he is quickly released back to the United States without injury or delay.

4. Conclusion

The U.N. has long stood to protect the human rights of all people. In intervening on behalf of Pastor Brunson, the U.N. will once again demonstrate its commitment to ensuring that freedom of religion exists for all people, regardless of their faith.

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[3] CONSTITUTION OF THE REPUBLIC OF TURKEY July 23, 1995, art. 10, and 'freedom of conscience, religious belief and conviction,' id. at art. 24, as do Articles 2 and 7 of the UDHR and Article 18 of the ICCPR.

[4] ICCPR, *adopted* Dec. 16, 1966, G.A. Res. 2200A (XXI), art. 18, U.N. Doc. A/6316 (*entered into force* Mar. 23, 1976).

[5] ECHR, art. 6 (Nov. 4, 1950), 213 U.N.T.S. 221.